

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:08-cr-54
)	
Howard O. Kieffer,)	
)	
Defendant.)	ORDER

The Court took the Defendant's Rule 29 motion for judgment of acquittal under advisement at the conclusion of all testimony. The jury found the Defendant guilty of both counts. The Rule 29 motion related only to Count One, the mail fraud charge, and was based upon alleged failure of the evidence regarding the use of the mails or other interstate carrier.

A petition for admission to the Bar of the United States District Court for the District of North Dakota appeared on the desk of Bismarck lawyer Chad McCabe with the usual morning mail. He signed as the local sponsor of Mr. Kieffer. (Actually, both Kieffer and McCabe signed on the wrong lines on the form but the proper intent was apparently assumed.) Mr. McCabe's legal assistant testified that she opened all the mail, discarded the envelopes or Fed Ex mailers if some other form of interstate delivery was used, and placed the documents on Mr. McCabe's desk. She has no independent recollection of the specific manner of delivery of the document to the office, but the inference is clear that it was not hand delivered by Mr. Kieffer, who was at that time using a California address, nor was the presence of a courier or carrier pigeon noted.

The Court finds that a sufficient factual basis was presented in order for the jury to find that the mail or other form of interstate carrier was used, and the motion is therefore denied.

IT IS SO ORDERED.

Dated this 20th day of April, 2009.

/s/ Patrick A. Conmy
Patrick A. Conmy, Senior District Judge
United States District Court